

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

JORGE R. QUEZADA, individually, and on
 behalf of all others similarly situated,

Plaintiff,

v.

CON-WAY FREIGHT INC.,

Defendants.

Case No. C 09-03670 JSW (NJV)

~~[PROPOSED]~~ ORDER GRANTING
 IN PART AND DENYING IN PART
 PLAINTIFF'S MOTION TO
 COMPEL PRODUCTION OF
 MATERIALS RESPONSIVE TO
 PLAINTIFF'S THIRD DOCUMENT
 INSPECTION REQUEST

[Fed. R. Civ. Proc. 37]

Hearing

Date: November 6, 2012
 Time: 10:00 a.m.
 Courtroom: Telephonic

On November 6, 2012 at 10:00 a.m., the Court heard Plaintiff Jorge R. Quezada's motion to compel Defendant Con-way Freight, Inc. to produce certain materials in response to Plaintiff's Third Document Inspection Request. Lawrence R. Cagney of Westrup Klick, LLP appeared on behalf of Plaintiff and the Certified Class, Barrett K. Green and Erica Kelley, Littler Mendelson PC, appeared on behalf of Defendant Con-way Freight, Inc.. The Court, having considered the papers and arguments submitted, hereby rules as follows:

1. Plaintiff's motion is **GRANTED** as to Requests Nos. 56, 57, 58, 61 & 62. Defendant is hereby ordered to conduct a reasonable and diligent search of its records for documents

responsive to such requests and to produce them to Plaintiff's counsel in electronic form no later than December 31, 2012. Plaintiff shall have until February 15, 2013 at 4:00 p.m. to review such production and to notify Defendant's counsel of any alleged deficiency regarding Defendant's production. The parties shall thereafter meet and confer with a view to resolving any disagreements concerning any alleged deficiency. If such efforts are unsuccessful, Plaintiff may so notify the Court and request a further hearing on the adequacy of Defendant's compliance with this Order.

2. Plaintiff's motion is **DENIED** as to Requests Nos. 59 and 60. The Court is not persuaded, at this time, that Defendant's electronic access control records are sufficiently probative to justify the burden of requiring Defendant to produce them in light of Defendant's representation that drivers' Record of Duty Status log books are available for production. Therefore, the Court orders Defendant to produce a sample of its Records of Duty Status log book pages for the Class Members during the class period on or before December 31, 2012. The parties have agreed that such sample shall be co-extensive with the sample periods for linehaul drivers agreed upon by the parties in July 2011. The Court's denial of Plaintiff's motion as to this request is without prejudice to revisiting this issue upon a showing of good cause and without prejudice to further appropriate discovery by Plaintiff.

3. Plaintiff's motion is **GRANTED** as to Requests Nos. 64, 65 & 66. Defendant shall produce the information responsive to these requests in electronic form on or before December 31, 2012.

Dated: November 21, 2012


HON. NANDOR J. VADAS
UNITED STATES MAGISTRATE JUDGE